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PATENT

Attorney Docket No. BBC-128/1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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IN RE APPLICATION OF: : EXAMINER: R. Cook  
Carl M. Mendel et al. : ART UNIT: 1614  
: :  
APPLICATION NO.: 10/828,607 :  
: :  
FILED: April 21, 2004 :  
: :  
FOR: Treatment of Fibromyalgia :  
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Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

PETITION TO REVIVE UNAVOIDABLY ABANDONED APPLICATION  
UNDER 37 C.F.R. §1.137(a)

On December 20, 2005 the undersigned received a telephone call from Examiner Cook asking whether a Reply was sent in response to the Final Office Action mailed June 17, 2005. Upon checking the case file, the department electronic docketing system and my own personal docketing system I found no record of receiving the Final Office Action and so informed Examiner Cook. Examiner Cook instructed me to call Brenda Gray at the USPTO to determine how to proceed.

I telephoned Brenda Gray on December 20 and 21, 2005 and January 4 and 5, 2006. When I spoke with her on January 5, 2006, Ms. Gray informed me that the instant case was listed as abandoned as of December 17, 2006 and instructed me to file a Petition for Revival.

The delay in replying to the Final Office Action mailed June 17, 2005 was unavoidable because Applicants had no record of receiving the instant office action. Due to the Christmas and New Year's holidays Applicants were unable to submit the instant petition until today.

Attached as Exhibit A is a copy of the Procedure for Incoming Mail in the Patent Department at Abbott Bioresearch Center. All mail is docketed in IP Master, the department's

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electronic database and docketing system. Each attorney/agent also docketes any due dates on his/her own docketing system.

Applicants respectfully request that the instant application be revived and have included the fee of \$500 as specified under 37 C.F.R. 1.117(l).

If the Examiner requires any additional information, Applicants invite the Examiner to call Applicants' agent at the number noted below.

Respectfully submitted,

Date: January 17, 2006



**Gayle O'Brien**  
Agent for Applicants  
Reg. No. 48,812

Abbott Bioresearch Center  
100 Research Drive  
Worcester, MA 01605  
(508) 688-8053



## Exhibit A

### Procedure for Incoming Mail Patent Department Abbott Bioresearch Center

- ⊕ The secretary collects the incoming mail from all in boxes 2 times daily.
- ⊕ The secretary opens and date stamps all incoming mail and hands to the paralegal.
- ⊕ The paralegal goes through and docketed all incoming mail into IP Master database..
- ⊕ Upon completion of docketing, the paralegal takes any mail which contains urgent actions (requires response with 5 days) directly to the attorney/agent. All non-urgent correspondence is place in the in-box of the corresponding attorney/agent.
- ⊕ Upon receiving his/her mail, each attorney/agent reviews his/her mail and docketed any due dates on his/her own due date tracking list.